

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

2014 Quadrennial Regulatory Review –)	
Review of the Commission’s Broadcast)	
Ownership Rules and Other Rules Adopted)	MB Docket No. 14-50
Pursuant to Section 202 of the)	
Telecommunications Act of 1996)	
)	
2010 Quadrennial Regulatory Review –)	
Review of the Commission’s Broadcast)	
Ownership Rules and Other Rules Adopted)	MB Docket No. 09-182
Pursuant to Section 202 of the)	
Telecommunications Act of 1996)	
)	
Promoting Diversification of Ownership In)	MB Docket No. 07-294
the Broadcasting Services)	
)	
Rules and Policies Concerning Attribution of)	
Joint Sales Agreements in Local Television)	MB Docket No. 04-256
Markets)	

MOTION TO STRIKE AND DISMISS

Office of Communication, Inc. of the United Church of Christ (UCC), Media Alliance, National Organization for Women Foundation, Communications Workers of America, NABET/CWA, The News Guild/CWA, Common Cause, Benton Foundation,¹ Media Council Hawai`i, Prometheus Radio Project, and Media Mobilizing Project (UCC, *et al.*) respectfully urge the Commission to strike and dismiss the National Association of Broadcasters’ (NAB) petition for reconsideration in these proceedings on December 1, 2016 (NAB Petition).²

¹The Benton Foundation is a nonprofit organization dedicated to promoting communication in the public interest. These comments reflect the institutional view of the Foundation and, unless obvious from the text, are not intended to reflect the views of individual Foundation officers, directors, or advisors.

² Petition for Reconsideration of the National Association of Broadcasters, Dkt. Nos. 14-50, 09-182, 07-294, 04-256 (Dec. 1 2016) (NAB Pet.).

The NAB Petition improperly evades the strict 25 page limit on reconsideration petitions by using a prohibited, undersized font for footnotes and inserting a substantial portion of its argument into those footnotes. In addition, NAB's summary is well over twice the permissible length, and improperly contains additional arguments.

47 CFR §1.49(a) requires that “[f]ootnotes and long, indented quotations may be single spaced, but must be in type that is 12-point or larger in height....” It also enforces the Commission's page limits by providing that “Counsel are cautioned against employing extended single spaced passages or excessive footnotes to evade prescribed pleading lengths.”

The NAB Petition as submitted is exactly 25 pages long. Its footnotes are in a font smaller than 12 points. Those footnotes are replete with argumentation that is not merely citations or clarifications of matter in the text, but which provides substantive material not otherwise addressed in the main text.³ UCC, *et al.* estimate that if these footnotes were in the main text, they would occupy at least 4 additional pages. Thus, it is clear that if the Petition had been prepared in accordance with the Commission's rules, the NAB Petition would far exceed the permissible limit of 25 pages.

Moreover, 47 CFR §1.49(c) sets a clear limit on the length of summaries. It specifically requires that “for pleadings and documents exceeding ten but not twenty-five pages in length, the summary should seldom exceed one and *never* two pages.”⁴ The NAB's summary is a full 5 pages, some of which is not an “accurate and clear condensation of the substance of the filing,” as permitted by the rules,⁵ but rather additional points not included in the Petition itself. As the Commission has explained, the reason a summary is required for pleadings over 10 pages in

³ See, e.g. NAB Pet. at pp. 2 n. 8; 3 nn. 9, 10, 11; 4 n. 12; 5 n. 14; 6 nn. 15, 16; 8 nn. 19, 20; 10 nn. 25, 26; 15 n. 38; 16 n. 41; 17 n. 43; 19 n. 52; 22 n. 63; 23 nn. 67, 68.

⁴ 47 CFR §1.49(c)(emphasis added).

⁵ *Id.*

length is to “enhance the ability of the agency and the public to access the filing”⁶ through a “crisp summary . . . [that] will provide a plain-worded ‘snapshot’ of the commentor’s position.”⁷ The summary should be a “condensation of the argument actually made in the body of the brief”⁸ and not additional argumentation. The summary is not intended to provide extra space for filers to evade the page limit.

The purpose of the page and font limitations is “to ensure that all parties filing a particular pleading have an equal opportunity to make a substantive presentation to the Commission.”⁹ Moreover, the Commission has stressed “the public interest is disserved to the extent that printing reduction processes enable parties to manipulate the page limits, thereby gaining an advantage over their opponents.”¹⁰

WHEREFORE, UCC, *et al.* urge the Commission to strike and dismiss the NAB Petition, and to grant all such other relief as may be just and proper.

Respectfully submitted,

/s/

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January 24, 2017

⁶ *Amendment of the Commission’s Rules To Require the Inclusion of a Table of Contents and Summary of Filing in Filings Longer Than Ten Pages*, 49 FR 40168-01, ¶4 (1984).

⁷ *Id.* at ¶3.

⁸ *Id.* at ¶4 (quoting former Rule 8(b), District of Columbia Circuit.).

⁹ *Amendment of Section 1.49 of the Commission’s Rules*, 9 FCCRcd 3415, ¶5 (1994).

¹⁰ *Id.*

CERTIFICATE OF SERVICE

I, David Nayer, hereby certify that on this 24th day of January, 2017, a copy of the foregoing Motion to Strike and Dismiss was served by first-class mail, postage prepaid, upon the following:

Rick Kaplan
Jerianne Timmerman
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Scott Goodwin
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/s/ David Nayer
David Nayer